

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

I. (a) PLAINTIFFS

Robert N. Goldstein, Goldstein/Habeeb Entertainment, Inc.
and Cheaters, Ltd.

DEFENDANTS

Tommy Habeeb

3 03 CV 06361

(b) County of Residence of First Listed Dallas
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED

(c) Attorney's (Firm Name, Address, and Telephone Number)

Timothy W. Sorenson
1717 Main Street, Suite 4050
Dallas, Texas 75201-4639

(214) 653-4377

Attorneys (If Known)

FEB 6

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	x 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		DEF
Citizen of This State	x 1	x 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS x 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	P R I S O N E R PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ft) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	FEDERAL TAX SUITS <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

x 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
-------------------------	---	--	---	--	---	--

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause
Do not cite jurisdictional statutes unless diversity.)

Copyright infringement, breach of fiduciary duty and business disparagement

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND** CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE _____ DOCKET NUMBER _____

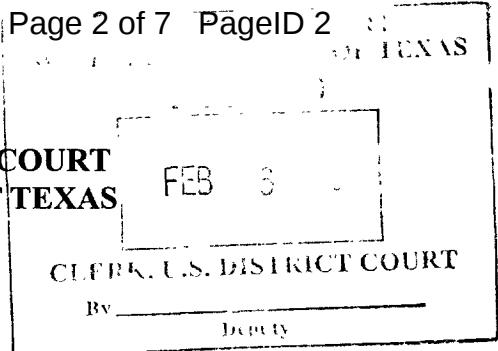
DATE 2/4/03 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



ROBERT N. GOLDSTEIN, §
GOLDSTEIN/HABEEB §
ENTERTAINMENT, INC., and §
CHEATERS, LTD., §
Plaintiffs §
vs. §
TOMMY HABEEB §
Defendant §

CAUSE NO. _____

3 0 3 C V 0 2 6 6 N

ORIGINAL COMPLAINT FOR DAMAGES
AND
APPLICATION FOR PRELIMINARY
AND PERMANENT INJUNCTION

I.
Parties

- 1.01 Plaintiff, Robert N. Goldstein (Goldstein), is a citizen of the State of Texas and a resident of Dallas County. Plaintiff, Goldstein/Habeb Entertainment, Inc. (GHE) is a corporation organized under the laws of the State of Texas whose principle place of business is in Dallas, Dallas County, Texas. Plaintiff, Cheaters, Ltd. (Cheaters) is a limited partnership formed under the laws of the State of Texas whose principle place of business is in Dallas, Dallas County, Texas.
- 1.02 Defendant, Tommy Habeb, is a resident of Dallas, Dallas County, Texas.

II
Jurisdiction and Venue

- 2.01 This Court has subject matter jurisdiction of Plaintiffs' claims of copyright infringement pursuant to 28 U.S.C. §1338(a), and has pendent jurisdiction over the Plaintiff's common law claims because the federal and common law claims arise out of a common nucleus of operative facts. *United Mine Workers v. Gibbs*, 383 U.S. 715, 86 S.Ct. 1130 (1966).

- 2.02 This Court has venue of this cause pursuant to 28 U.S.C. §1331(b)(1).
- 2.03 All conditions precedent to the filing of this action have been performed or have occurred.

III Operative Facts

- 3.01 Prior to December 26, 1996, Goldstein, who then was and ever since has been a citizen of the United States, created and wrote an original program concept for a television series entitled, "Cheaters".
- 3.02 This program concept contained a large amount of material wholly original with Goldstein and is copyrightable subject matter under the law of the United States.
- 3.03 Between December, 1995 and December 26, 1996, Goldstein complied in all respects with Title 17 of the United States Code, and all other laws governing copyright, and secured the exclusive rights and privileges in and to the copyright of said original program concept, and received from the Registrar of Copyrights a certificate of registration, dated and identified as follows: TXu 770-121, December 26, 1996.
- 3.04 On or about August 10, 1998, Goldstein granted an exclusive license to the original program concept GHE for the purpose of developing and producing a television video tape to be used as a pilot for the publication, sale and syndication of the original program concept. GHE produced the program concept pilot film and published it in October, 1998 .
- 3.05 On or about August 25, 1999, with Goldstein's consent, GHE assigned its exclusive license to the program concept to Cheaters for the purpose of developing and producing a television video tape series to be sold, published and syndicated from the original program concept. Cheaters has produced, developed and published one hundred thirty-minute films from the original concept, and is in the process of producing additional television video tapes from the original program concept.
- 3.06 Each of the television tapes that has been produced by GHE and by Cheaters is a derivative work based upon the original program concept registered by Goldstein and is protected by Title 17 of the United State Code.

3.07 The names “Tommy Gunn” (the original *nom de plume* of its host) and “Tommy Grand” (the present *nom de plume* of its host) and the phrase, “talk to me, Gomez” were used in connection with each and every publication of the television show, “Cheaters” so as to be and become synonymous with the program concept. The names “Tommy Gunn” and “Tommy Grand” and the phrase, “talk to me, Gomez” are derivative works based upon the original program concept registered by Goldstein and are protected by Title 17 of the United States Code.

3.08 On or about November 28, 2001, the License to GHE was revoked for due cause, and Goldstein granted a new license to the program concept directly to Cheaters for the continued development and publication of television video tapes from the original program concept.

3.09 At all time material hereto Defendant was and is a director and minority shareholder in GHE.

3.10 Between April 20, 1998, and October 26, 2002, Defendant served as the Host for the published television pilot and the television shows that were developed and published from the original concept duly copyrighted to Goldstein. Defendant was paid and accepted an appearance fee as full compensation for each of his appearances as Host on the television pilot and shows. In connection therewith, Defendant signed a waiver of any and all claims for the use of his image in connection with the show.

3.11 Defendant has infringed Goldstein’s copyright by publishing a World Wide Web site containing the name, “Tommy Gunn” and “Cheaters”, by selling t-shirts with the name, “Cheaters” and the phrase, “Talk to me Gomez” on them, by tying his World Wide Web site to that owned by Cheaters and by publicly claiming ownership in and to Goldstein’s copyright and to the television program, “Cheaters”.

IV
First Cause of Action for Declaratory Relief

4.01 Plaintiffs incorporate the statement of Operative Facts contained in section III above as though same were republished in full herein.

4.02 Pursuant to 28 USC §§2201 and 2202, Goldstein requests the Court to declare that Goldstein is the sole owner of the copyright to the original program concept for a television series entitled, "Cheaters" and to all works originally derived from that original program concept, including the pilot television show, all subsequent television shows, the names, "Tommy Gunn" and "Tommy Grand" and to the phrase, "talk to me, Gomez".

V

Second Cause of Action for Breach of Fiduciary Duty

5.01 Plaintiffs incorporate the statement of Operative Facts contained in section III above as though same were republished in full herein.

5.02 As a director of GHE, Defendant owed a fiduciary duty to GHE.

5.03 Defendant has breached and continues to breach his fiduciary duty to GHE by usurping corporate opportunities and property to his own account and for his own benefit.

5.04 GHE has been damaged and continues to be damaged by reason of Defendant's breach of his fiduciary duty in an amount not readily susceptible to calculation.

VI

Third Cause of Action for Business Disparagement

6.01 Plaintiffs incorporate the facts and statements contained in sections III above as though same were republished in full herein.

6.02 Defendant has published in his World Wide Web site the following statement, "You will here (sic) lots of things regarding why I am not on the show, but I can tell you directly and simply; I did not leave the show by choice, but to the contrary, I have been forced out by the unlawful greed to which I cannot fully comment at this time due to pending litigation." This statement referred to the television show, "Cheaters", was false when published, was made to deter "Cheaters" fans from watching the television show, and was made solely to force Goldstein and Cheaters to acknowledge and pay Defendant for his claim to the copyrights hereinafter recited. The statement, and other like it, have damaged Goldstein and Cheaters in an amount not readily susceptible to calculation.

VII
Request for Preliminary Injunction

- 7.01 Plaintiffs incorporate the facts and statements contained in sections III, V and VI above as though same were republished in full herein.
- 7.02 Goldstein attaches hereto and incorporates herein by reference a true copy of certificate of registration, dated December 26, 1996 and bearing certificate number TXu 770-121, issued by the Registrar of Copyrights. Therefore, there is a substantial likelihood that Plaintiffs will succeed on the merits of their claims herein.
- 7.03 Defendant's use of the copyrighted material, when combined with his breach of fiduciary duty and disparaging remarks, poses a substantial threat of irreparable injury to Plaintiffs by providing Defendant with an unjust advantage, *i.e.*, the advantage of using the time and expertise the Goldstein and the moneys of GHE and Cheaters expended in developing the copyrighted material, in head to head competition with the plaintiff.
- 7.04 Defendant's use of Plaintiffs' copyrighted materials is the very type of use that the copyright laws are designed to prevent and a paradigm situation for injunctive relief. The threatened injury to Plaintiffs far outweighs any damage an injunction might cause to the Defendant.
- 7.05 Plaintiffs therefore request the Court issue a preliminary injunction enjoining the Defendant, and all of his agents and servants from infringing said copyright and derivative works in any manner and from directly or indirectly disparaging Goldstein or Cheaters. Such injunction will not disserve the public interest.

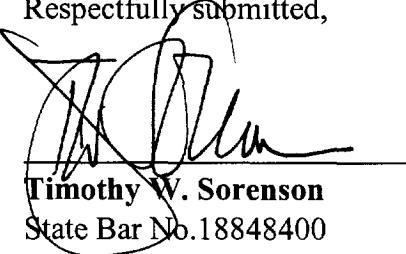
VIII
Request for Permanent Injunction

- 8.01 Plaintiffs incorporate the facts and statements contained in sections III, V, VI and VII above as though same were republished in full herein.
- 8.02 Plaintiffs request that the Court, upon final hearing hereof, permanently enjoin Defendant from infringing said copyright and derivative works in any manner and from directly or indirectly disparaging Goldstein or Cheaters.

IX
Request for Damages and Attorney's Fees

- 9.01 Plaintiffs incorporate the facts and statements contained in sections III, V, VI and VII above as though same were republished in full herein.
- 9.02 Plaintiffs request the Court to order Defendant to account for and pay over all gains, profits and advantages derived by Defendant by reason of Defendant's infringement, and that the Court enter judgment against the Defendant for the amount of Plaintiffs' damages.
- 9.03 Plaintiffs request the Court to enter judgment against the Defendant for the amount of Plaintiffs' reasonable attorney's fees incurred in connection with this suit as permitted by Title 17 of the United States Code.
- 9.04 Plaintiffs request damages for Defendant's breach of his fiduciary duty and for his libelous statements; and,
- 9.04 Plaintiffs request the Court to enter any and all such further orders as may be just in the cause, at law and in equity, and to award Plaintiff her costs of Court incurred herein.

Respectfully submitted,



Timothy W. Sorenson
State Bar No.18848400
1717 Main Street, Suite 4050
Dallas, Texas 75201-4639
Ph: (214) 653-4377
Fax: (214) 653-4343
Attorney for Plaintiffs